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November 13, 2018

VIA ELECTRONIC FILING (ECFS)

ACCEPTED/FILED

Marlene H. Dortch, Esq., Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

DEC 21 2018

Federal Communications Commission
Office of the Secretary

Re: *Status of Competition in the Marketplace for Delivery of Audio
Programming, MB Docket No. 18-227*

Dear Ms. Dortch:

On November 8, 2018, Connoisseur Media, LLC, represented by Jeffrey Warshaw, Founder and Chief Executive Officer, and Townsquare Media, Inc., represented by Dhruv Prasad, Co-Chief Executive Officer, and the undersigned held separate meetings with 1) Chairman Ajit Pai and Alison Nemeth Steger, Legal Advisor to Chairman Pai; 2) Commissioner Brendan Carr and Evan Swarztrauber, Legal Advisor to Commissioner Carr; and 3) Sarah Whitesell, Deputy Chief, Media Bureau, Al Shuldiner, Chief, Audio Division, Media Bureau, Brendan Holland, Chief, Industry Analysis Division, Media Bureau, Radhika Karmarkar, Deputy Chief, Industry Analysis Division, Media Bureau, Ty Bream, Assistant Chief, Industry Analysis Division, Media Bureau, and Julie Salovaara, Attorney Advisor, Industry Analysis Division, Media Bureau.

The purpose of the meeting was to discuss audio competition issues and their impact on the radio ownership rules. In particular, it was discussed that new marketplace entrants have disrupted the competitive landscape in the audio marketplace for advertisers and listeners, much to the benefit of consumers. There is no longer a siloed audio marketplace where broadcast radio stations compete only with each other. However, these new sources of audio entertainment and information have changed the economies of legacy participants – particularly traditional AM or FM radio – which provide often essential local news, particularly in emergency situations. In addition, digital competitors like Google and Facebook have significantly affected the local advertising markets, capturing significant shares of local advertising dollars in every radio market. The growth and competitiveness of traditional broadcast radio is threatened by these changes in the marketplace – and radio is restrained from responding to these threats by the outdated structural ownership rules that have not been substantially updated since 1996. These

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regulatory barriers are not applicable to digital competitors and were adopted for a far different audio marketplace than the one that exists today.

This filing is made in accordance with Section 1.1206(b)(1) of the Commission's rules, 47 C.F.R. § 1.1206(b)(1). In the event that there are any questions concerning this matter, please contact the undersigned.

Sincerely,

/s/ David D. Oxenford

David D. Oxenford
Danielle K. Thumann

Counsel for Connoisseur Media and
Townsquare Media

cc: Chairman Ajit Pai
Commissioner Brendan Carr
Alison Nemeth Steger
Evan Swarztrauber
Sarah Whitesell
Al Shuldiner
Brendan Holland
Radhika Karmarkar
Ty Bream
Julie Salovaara



December 3, 2018

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Re: Ex Parte Presentation, WT Docket No. 08-7, CG Docket No. 17-59; GN
Docket No. 18-231; WT Docket No. 18-203; MB Docket No. 17-214; MB
Docket No. 18-227; IB Docket No. 18-251

Dear Ms. Dortch,

On November 29, 2018, Scott Bergmann and Matthew Gerst of CTIA met separately with Nirali Patel, Legal Advisor to FCC Chairman Ajit Pai, and with Erin McGrath, Legal Advisor to FCC Commissioner Michael O’Rielly, and Kagen Despain, Intern in the Office of Commissioner O’Rielly, to discuss CTIA’s perspectives on the Commission’s December 12th Open Meeting agenda.

During the meeting, CTIA expressed support for the FCC’s *Draft Declaratory Ruling*¹ which, if adopted, will preserve the wireless industry’s ability to protect consumers from unwanted spam messages (Robotexts) in today’s competitive messaging environment. The *Draft Declaratory Ruling* makes clear that wireless providers can continue to take steps to maintain messaging as a trusted communications medium. According to a November 2018 Morning Consult survey, just 9 percent of surveyed consumers said they receive the most unwanted communications on text messages/SMS, while nearly 90 percent said they receive

¹ *Petitions for Declaratory Ruling on Regulatory Status of Wireless Messaging Service*, Draft Declaratory Ruling, WT Docket No. 08-7, FCC-CIRC-1812-04 (draft rel. Nov. 21, 2018) (*Draft Declaratory Ruling*).



the most unwanted communications on voice or email. Not surprisingly, 91 percent of surveyed consumers support wireless providers' efforts to identify and block spam.²

In addition to consumer support, CTIA reiterated that the *Draft Declaratory Ruling* is consistent with the views of state attorneys general, public safety, and local government representatives who have asked the Commission to ensure that wireless messaging services do not suffer the same fate as voice, which has overwhelmed consumers with billions of unwanted robocalls.³ The *Draft Declaratory Ruling*, moreover, will preserve competitive and technological neutrality with over-the-top messaging apps such as WhatsApp and Facebook Messenger, which make up roughly 75 percent of all messaging.⁴ For these reasons, CTIA noted that the FCC's *Draft Declaratory Ruling* is the right call and a big win for consumers.

CTIA also discussed the FCC's efforts to combat robocalls and ensure consumers receive wanted calls and, specifically, CTIA expressed support for helping calling parties to avoid reaching non-consenting consumers who utilize reassigned telephone numbers. While CTIA continues to believe that existing commercial solutions can help mitigate liability under the Telephone Consumer Protection Act (TCPA) for calling parties, CTIA expressed appreciation that the Commission's *Draft Second Report & Order* seeks to address concerns from callers and consumers about unwanted calls to reassigned numbers while attempting to minimize unnecessary burdens on voice providers.⁵

Further, CTIA expressed support for the Commission's *Draft Communications Marketplace Report*⁶ on the state of the wireless marketplace, which recognizes the increasing importance of wireless to consumers throughout the U.S. CTIA noted that the *Draft Communications Marketplace Report* demonstrates continued improvements in the availability and adoption of mobile wireless services. Further, CTIA commended the Commission for

² Memorandum from Morning Consult to CTIA (Nov. 28, 2018) (on file with the author) (Morning Consult Poll) (detailing a November 21-25, 2018 national sample poll of 1,945 registered voters weighted to approximate a target sample of employed adults based on race/ethnicity, gender, educational attainment, and region, with a margin of error of plus or minus 2 percentage points.)

³ See *Draft Declaratory Ruling* ¶¶ 43-45.

⁴ See Pamela Clark-Dickson, *Mobile Messaging Traffic and Revenue Forecast Report, 2017-22*, Ovum (May 30, 2018).

⁵ *Advanced Methods to Target and Eliminate Unlawful Robocalls*, Draft Second Report and Order, CG Docket No. 17-59, FCC-CIRC1812-03 (draft rel. Nov. 21, 2018) (*Draft Second Report & Order*).

⁶ *Communications Marketplace Report*, Draft First Report, GN Docket No. 18-231, FCC-CIRC-1812-07 (draft rel. Nov. 21, 2018) (*Draft Communications Marketplace Report*).



highlighting the importance of sound spectrum and infrastructure policies to enable competition and promote broadband deployment. CTIA noted that the Commission has taken laudable steps to make additional high-band spectrum available for next-generation services, including the 26 GHz, 29 GHz, 31 GHz, 32 GHz, 42 GHz, and 50 GHz bands that are still under review in the Spectrum Frontiers proceedings. These bands have strong potential for terrestrial wireless use, particularly given the economies of scale they would create in conjunction with other high bands being auctioned.

Pursuant to Section 1.1206 of the Commission's rules, a copy of this letter is being filed in ECFS and provided to the Commission participants. Please do not hesitate to contact the undersigned with any questions.

Sincerely,

/s/ Matthew Gerst

Matthew Gerst

Assistant Vice President, Regulatory Affairs

cc: Nirali Patel
Erin McGrath
Kagen Despain